

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1337V

Filed: May 12, 2017

Unpublished

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MARGUERITE ACKER,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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*Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.*

*Althea W. Davis, U.S. Department of Justice, Washington, DC, for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On October 13, 2016, Marguerite Acker (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered shoulder injuries from an influenza (“flu”) vaccination administered on October 16, 2015. Petition at preamble. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On May 12, 2017, respondent filed a Rule 4(c) Report conceding that petitioner is entitled to compensation. Rule 4(c) Rep. at 1. Based on the opinion of the medical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services (“DICP”), respondent has concluded that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (“SIRVA”). *Id.* at 4. No other causes for petitioner’s injury were identified. *Id.* In addition, petitioner’s

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

medical records demonstrate satisfaction of the statutory six-month sequela requirement. *Id.* Based on the record as it now stands, respondent believes entitlement to Vaccine Act compensation is appropriate. *Id.*

**In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master